



Patent US 205C2
Edwards Ref: RMI-5723 CON2
(formerly 271/094)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

McKenzie et al.

Serial No.: 10/077,312

Filed: February 15, 2002

For: PERFUSION SHUNT APPARATUS
AND METHOD

Group Art Unit: 3792

Examiner: U. Chattopadhyay

DECLARATION OF RICHARD MURPHY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Richard Murphy, do declare that:

1. I was employed by EMBOL-X, Inc., as a project manager for the arterial filter, from July 1997-November 2001. I received a B.S. in mechanical engineering from California Polytechnic State University, San Luis Obispo, in 1990. I am not an inventor named on this application.
2. I have reviewed U.S. Application Serial No. 10/077,312 ("the '312 application").
3. In my capacity as a project manager, one of my responsibilities was to work with filter materials such as those described in the '312 application.

4. The filter mesh materials used in the filters described in the '312 application, e.g., at page 17, lines 12-15 and by incorporation of U.S. Patent No. 6,231,544, at Col. 13, lines 49-64, inherently have varying porosity because of variation in the manufacturing process. In fact, it is well known for filters having a structure shown in Fig. 2 of the application, reproduced below, that pore size gradually decreases as you move along the longitudinal axis of the device away from the base of the generally conical structure.

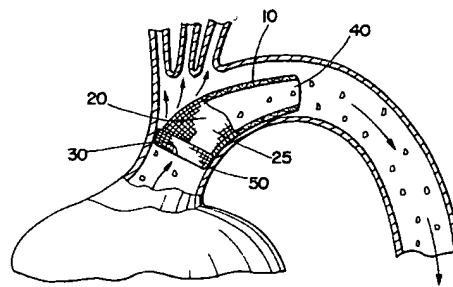



Fig. 2

5. Based on my review, I believe that a person skilled in the art would understand that McKenzie and Hattori described, and were in possession of, filters having filter mesh material of varying porosity.

6. I further declare that all statements made in this Declaration of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the patent and application involved in the present proceedings.

Dated: 24 NOV 04


Richard Murphy